



May 13, 2019

Chair Chuck Riley, Committee members
Senate Committee on Business and General Government
Oregon State Legislature

HB 2353: Support

Dear Chair Riley, Vice-Chair Girod:

The Society of Professional Journalists, Oregon Territory Chapter, represents reporters across the state who seek to provide meaningful and accurate news to Oregonians as a matter of public service. We thank you for the opportunity to discuss the engrossed version of HB 2353.

Timely access to public records is central to an open democracy. That transparency can spare Oregonians being subjected to wasteful expenditures and other ill effects. Case in point: a few public records requests made by The Oregonian in 2015 led to two bribery convictions by Oregon DOJ as well as litigation that's recouped \$13 million for the state — a figure that could grow to \$30 million (see brief video here: <https://www.youtube.com/watch?v=5ezzbjFWpQo>).

In 2017, in SB 481, the Oregon Legislature recognized the need for transparency. It adopted a public records timeliness standard crafted by the AG's consensus-driven records reform task force. The bill was widely supported by local governments and approved by a huge margin.

Members of the public, however, as well as members of SPJ, continue to see delays that violate the standard, creating an inequitable situation. Agencies face zero consequence for violating the flexible timelines in Oregon's law. Meanwhile, it's the public who bears the cost of the considerable time and effort necessary to enforce Oregon's government-friendly law.

This bill would address that. It includes a minimal provision allowing, but not requiring, mild penalties such as a fee reduction. Though mild, it would let Oregonians know that when the Legislature said timely access to Oregonians' public records is important, you meant it.

The bill preserves the protection Oregon's records law provides to small or overwhelmed agencies. The closest thing to a hard deadline in the law is that agencies — as long as they are sufficiently staffed — are expected to meet a 15-day benchmark to either deny the request, provide records, or provide an estimate of the date by which the records *could* be provided.

HB 2353 was crafted to address concerns expressed by the League of Oregon Cities before session that Oregon not follow the lead of Washington state, where agencies face a \$100-per-day penalty (plus attorney fees) for failure to meet that state's hard deadlines on providing record

The current version of the bill does not allow for attorney fees to be paid to the requester. It also says that, instead of a fine, a fee reduction or waiver can be mandated by the District Attorney or Attorney General. SPJ has been told that DAs would likely prefer to award a fee reduction than a fine — suggesting that is the likeliest outcome in the event of a penalty.

We would respectfully ask for your support of this bill. Oregonians deserve to know that the timeliness requirements of Oregon law are real requirements, with actual consequences for violating them. I'd be happy to answer any questions.

-Nick Budnick, Oregon Territory Society of Professional Journalists board member.
Co-chair, OTSPJ Freedom of Information Committee.